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MAILED

MAY 13 2004

OFFICE OF THE DIRECTOR
TC 3800

In re Application of :
Anadish Kumar Pal : **DECISION ON PETITION**
Application No. 09/781,090 : **TO WITHDRAW THE**
Filed: January 12, 2001 : **HOLDING OF ABANDONMENT**
For: TWO-WHEEL ELECTRIC MOTOR
VEHICLE WHERE WHEELS ARE
PARALLEL TO EACH OTHER, WITH A
PROVISION FOR CONNECTING TWO
OR MORE SUCH VEHICLES IN
TANDEM BEING STEERED BY THE
FRONT ONE

This is in response to applicant's third renewed petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO), on August 4, 2003.

The petition is **GRANTED**.

A review of the file record indicates that the application was held abandoned for failure to respond to the Office action dated January 15, 2002.

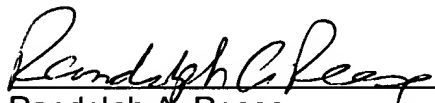
Applicant filed a first petition to withdraw the holding of abandonment on September 24, 2002 alleging that the Office action dated January 15, 2002 was not received. That petition was dismissed in a decision mailed on January 30, 2003 wherein it was held that the petition lacked the necessary evidence to show that the Office action was not received.

The second renewed petition stated "[i]n the fall of 2001, the petitioner's locality people were informed about the change of PIN code for their locality by the local postal-service people." The renewed petition includes a change of correspondence address indicating a change in the PIN code to 110088. However, applicant failed to state, as to what date, the change in PIN code was effective. Thus, it was uncertain if the Office action of January 15, 2002 was sent to a correspondence address which required updating.

While MPEP 711.03(c) does give an applicant the ability to petition to show that a communication from the Patent Office was not received, this is predicated on the fact that applicant **was at** a correctly updated correspondence address to receive the communication. MPEP 711.03(c) requires an applicant to show that "due care was taken to adhere to the requirement for prompt notification in each concerned application for the change of address".

The third renewed petition filed on August 4, 2003 includes statements showing that due care was taken to adhere to the requirement for prompt notification in each concerned application for the change of address via reliance on the authenticity of India's government web site INDIAPOST and that the change of the PIN code of the postal region was out of the control of applicant with the effective date of change in the PIN code as May 19, 2002 by the local postal authorities yet the official government data base INDIAPOST still showing as not being updated. This is considered adequate proof of non-receipt of the Office action mailed January 15, 2002. Therefore, the petition is granted.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to re-date and re-mail the Office action originally mailed on January 15, 2002 based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.



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RAR/ekn 5/12/04